

Message Text

CONFIDENTIAL

PAGE 01 NASSAU 00015 01 OF 02 062109Z

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FM AMEMBASSY NASSAU

TO SECSTATE WASHDC PRIORITY 6307

C O N F I D E N T I A L SECTION 1 OF 2 NASSAU 015

EXDIS

E. O. 11652: GDS

TAGS: PLOS MARR BF US

SUBJ: DRAFT OPERATING RIGHTS AGREEMENT AND THE ARCHIPELAGO
TALKS

DEPARTMENT PASS SECDEF, OSD FOR IS, AND JCS

SUMMARY: AS US LOS TEAM PREPARES TO VISIT NASSAU FOR TALKS ON THE ARCHIPELAGO ISSUE, EMBASSY WISHES TO FLAG ISSUE OF RELATIONSHIP BETWEEN TRANSIT OF BAHAMIAN ARCHIPELAGO AS SEEN IN MULTILATERAL LOS CONTEXT AND IN BILATERAL DRAFT OPERATING RIGHTS AGREEMENT. EMBASSY BELIEVES THOUGHT SHOULD BE GIVEN TO THIS RELATIONSHIP AND TO EFFECT ACCOMMODATION OF MUTUAL LOS INTERESTS MAY HAVE ON OPERATING RIGHTS DRAFT. PREVIOUS REPORTING BY EMBASSY SUGGESTS THAT GCOB MINEXTAFF ADDERLEY SEES RELATIONSHIP AS VERY CLOSE, HINGED ON THE CONCEPT OF TRANSIT. THERE IS NO SPECIFIC INDICATION ADDERLEY WILL RAISE OPERATING RIGHTS OR FACILITIES IN CONTEXT OF UPCOMING ARCHIPELAGO TALKS, BUT EMBASSY BELIEVES IT IS A POSSIBILITY FOR WHICH USG SHOULD BE PREPARED WITH APPROPRIATE RESPONSE. END SUMMARY.

1. MILITARY OPERATING RIGHTS. US DRAFT OF AN OPERATING RIGHTS AGREEMENT, DATED NOVEMBER 6, 1973 AND PRESENTED IN CONTEXT OF FACILITIES NEGOTIATIONS, PROVIDES THAT "ALL AIRCRAFT AND VESSELS OPERATED BY, FOR, OR UNDER THE CONTROL OF THE UNITED STATES FORCES SHALL HAVE FREEDOM OF ACCESS TO, AND MOVEMENT IN AND OVER THE TERRITORY OF THE BAHAMAS". THE PROVISION IS MODIFIED SLIGHTLY BY REQUIREMENTS FOR NOTIFICATION OF PORT
CONFIDENTIAL

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PAGE 02 NASSAU 00015 01 OF 02 062109Z

VISITS AND FILING OF FLIGHT PLANS. A SECOND PROVISION PRO-

VIDES THAT "WHEN THE UNITED STATES IS ENGAGED IN HOSTILITIES OR IN TIME OF OTHER EMERGENCY, IT MAY EXERCISE IN THE BAHAMAS SUCH RIGHTS AS MAY BE NECESSARY FOR CONDUCTING MILITARY OPERATIONS, BUT THESE RIGHTS SHALL BE EXERCISED IN A SPIRIT OF GOOD NEIGHBORLINESS AND FRIENDLY COOPERATIONS". IN NASSAU 846 (ALL REFERENCES ARE TO 1974 TELEGRAMS), EMBASSY CHARACTERIZED OPERATING RIGHTS DRAFT AS "OPEN-ENDED, NON-RECIPROCAL AND, IN EFFECT, (GIVING) U.S. A BLANK CHECK FOREVER."

2. GCOB HAS NEVER COMMENTED WITH ANY SPECIFICITY ON US DRAFT. ADDERLEY, HOWEVER, HAS MADE CLEAR, AS REPORTED IN NASSAU 1177, THAT THE DRAFT "GOES MUCH FURTHER" THAN BAHAMIANS "COULD POSSIBLY GO" AND APPEARS TO GIVE USG MORE EXTENSIVE RIGHTS IN THE BAHAMAS THAN IT HAS WITHIN ITS OWN FIFTY STATES. HE ALSO MADE CLEAR THAT THE DRAFT WAS ESSENTIALLY A TRANSIT AGREEMENT AND WAS THUS INSEPARABLE FROM THE ARCHIPELAGO ISSUE. ADDERLEY HAS RAISED VERY EXPLICITLY THE QUESTION OF HOW MUCH THE OPERATING RIGHTS AGREEMENT AS CURRENTLY DRAFTED IS WORTH TO THE USG, SUGGESTING THAT THE BAHAMIAN PRICE MIGHT BE VERY HIGH INDEED.

3. TO EMBASSY'S KNOWLEDGE, USG HAS NEVER DECIDED THE PRICE IT WOULD BE WILLING TO PAY FOR THE DRAFT OPERATING RIGHTS, AS DISTINCT FROM THE FACILITIES AGREEMENT WHICH OF COURSE ITSELF INCLUDES PROVISIONS FOR ACCESS TO THE SPECIFIC FACILITIES. STATE 112699 SUGGESTS THAT OPERATING RIGHTS AND FACILITIES CANNOT BE SEPARATELY PRICED. THAT SAME MESSAGE OFFERS TWO POSSIBLE FALL-BACKS FROM THE OPERATING RIGHTS DRAFT: (A) "TEMPORARY BLANKET CLEARANCE, LESS LANDING AND PORT RIGHTS, FOR US SHIPS AND AIRCRAFT, SUBJECT TO RENEWAL EACH YEAR"; AND (B) "NARROWLY DRAWN SPECIFIED GENERAL OPERATING RIGHTS, LESS LANDING AND PORT VISITS, FOR US SHIPS AND AIRCRAFT FOR LONGER DURATION". RECIPROCITY OF OPERATING RIGHTS WAS ALSO LISTED AS A POSSIBLE CONCESSION, ALTHOUGH ADMITTEDLY OF LITTLE PRACTICAL VALUE. NONE OF THESE POSSIBLE FALL-BACKS WAS EVER REVEALED TO THE GCOB, OF COURSE, NOR WERE SPECIFICS FURNISHED THE EMBASSY, GIVEN THE FAILURE OF THE GCOB TO GET VERY FAR INTO THE SUBSTANCE OF THE ISSUE, OR INDEED TO PREPARE ITS OWN COUNTER-DRAFT AS US SIDE SUGGESTED.

4. LOS. UNTIL RECENTLY, IT APPEARED THAT BAHAMIAN CONCERNS
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PAGE 03 NASSAU 00015 01 OF 02 062109Z

REGARDING THE ARCHIPELAGO ISSUE CENTERED ON DEFINITIONAL ASPECTS RATHER THAN THE TRANSIT REGIME WITHIN. CARACAS 6837, FOR EXAMPLE, REPORTED FROM THE FIRST SESSION OF THE LOS CONFERENCE THAT "ALL INDICATIONS WERE THAT GCOB WOULD ACCEPT US TRANSIT REGIME," WHICH TENDED TO CONFIRM EMBASSY ESTIMATES. NASSAU 1014, HOWEVER, REPORTED THAT ADDERLEY HAD RAISED MISGIVINGS ABOUT THE TRANSIT CONCEPT TO THE EXCLUSION OF DEFINITIONAL ISSUES IN A DECEMBER 1974 CONVERSATION WITH THE

AMBASSADOR. ADDERLEY AT THAT TIME INDICATED CONFUSION AS TO THE MEANING AND IMPLICATIONS OF THE CONCEPT, AND SUGGESTED HESITATION ABOUT IGNORING DISTINCTIONS BETWEEN TYPES AND FUNCTIONS OF TRANSITING VESSELS, ETC. CLEARING UP THIS ISSUE IS PRESUMABLY ONE OF THE REASONS FOR THE FORTHCOMING NASSAU VISIT OF THE US LOS TEA.

5. EMBASSY NOTES FROM REPORTING SUCH AS JAKARTA 14917 THAT US HAS HAD SOME SUCCESS IN ACHIEVING WHAT APPEARS TO BE A COMPLEX AND DELICATELY BALANCED ACCOMMODATION OF INTERESTS WITH INDONESIA CONCERNING ARCHIPELAGOS AND TRANSIT PASSAGE OF INTERNATIONAL STRAITS, A BALANCE WHICH INCLUDES DESIGNATED ARCHIPELAGIC LANES, MINIMUM OVERFLIGHT ALTITUDES, POSSIBLE RESTRICTIONS ON TRANSIT OUTSIDE ARCHIPELAGIC LANES, ETC., NONE OF WHICH IS ENVISAGED IN THE US-BAHAMIAN DRAFT OPERATING RIGHTS AGREEMENT. EMBASSY WONDERS WHETHER A SIMILAR SORT OF BALANCE OF LOS INTERESTS WILL BE SOUGHT IN TALKS WITH ADDERLEY. IF SO, IT WOULD SEEM THAT INDONESIAN-TYPE ARCHIPELAGO AGREEMENT WOULD NECESSARILY HAVE A CIRCUMSCRIBING EFFECT ON THE RATHER EXPANSIVE DRAFT OPERATING RIGHTS AGREEMENT STILL ON THE TABLE. BUT, SINCE ADDERLEY APPEARS TO VIEW TRANSIT (SPECIFICALLY MILITARY TRANSIT) AS A COMMON DENOMINATOR BETWEEN LOS AND OPERATING RIGHTS, IT IS HARD FOR EMBASSY TO SEE HOW SUBJECT OF RELATIONSHIP BETWEEN THE TWO ISSUES COULD BE AVOIDED, EVEN IF US WISHED TO DO SO.
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CONFIDENTIAL

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PAGE 01 NASSAU 00015 02 OF 02 062219Z

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C O N F I D E N T I A L SECTION 2 OF 2 NASSAU 015

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6. EMBASSY BELIEVES THAT IT MAY BE WORTHWHILE FOR USG TO BEAR THIS RELATIONSHIP IN MIND AND ATTEMPT TO ANTICIPATE ADDER-

LEY'S POSSIBLE REFERENCE TO IT. ONE RESPONSE, OF COURSE, WOULD BE TO AVOID ALL DISCUSSION OF DRAFT OPERATING RIGHTS AGREEMENT BY DISMISSING IT AS A MATTER ENTIRELY OUTSIDE THE SCOPE OF THE ARCHIPELAGO TALKS. QUESTION THEN REMAINS AS TO HOW MUCH OF THAT DRAFT WOULD BE LEFT AFTER AGREEMENT ON THE ARCHIPELAGO ISSUES. ANOTHER ALTERNATIVE MIGHT BE TO AVOID GETTING INTO ARCHIPELAGO SPECIFICS OF THE INDONESIA SORT, BUT THEN THE QUESTION REMAINS AS TO WHAT THE UPCOMING LOS TALKS WOULD HAVE RESOLVED. STILL ANOTHER ALTERNATIVE WOULD BE A USG WILLINGNESS TO HAVE WHATEVER EMERGES FROM THE LOS BILATERAL TALKS FORM THE BASIS, OR AT LEAST THE FLOOR, FOR EVENTUAL AGREEMENT ON OPERATING RIGHTS. EMBASSY IS QUITE AWARE OF THE DIFFERENCES BETWEEN THE LOS AND OPERATING RIGHTS TRANSIT ISSUES, AS WELL AS OF THE DIFFERENT US INTERESTS INVOLVED AND THE DIFFERENT CONTEXTS (NOT TO MENTION FORA) IN WHICH THEY ARE BEING PURSUED. FROM THE BAHAMIAN POINT OF VIEW, HOWEVER, THESE DIFFERENCES MAY TEND TO MERGE AND EVEN PLAYED OFF AGAINST ONE ANOTHER, THE MAXIMAL OPERATING RIGHTS AGAINST THE CAREFULLY BALANCED LOS INTERESTS. IN OUR PREPARATIONS FOR THE LOS TALKS AND FOR THE PRIOR MEETING BETWEEN EMBASSY AND LOS TEAM, WE WOULD APPRECIATE RECEIVING AT LEAST TENTATIVE WASHINGTON READING ON HOW THIS MATTER SHOULD BE PLAYED.

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